



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

November 30, 1994

Ms. Lisa A. Brown
Bracewell & Patterson
South Tower Pennzoil Place
711 Louisiana Street, Suite 2900
Houston, Texas 77002-2781

OR94-790

Dear Ms. Brown:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29250.

The Cypress-Fairbanks Independent School District (the "district") received an open records request for, *inter alia*, the names, addresses, and telephone numbers of parents and other individuals who provide volunteer services to the district. You state that the district does not object to releasing the names of the volunteers; however, you seek to withhold the volunteers' home addresses and telephone numbers pursuant to sections 552.101 and 552.117 of the Government Code.

Section 552.117(1)(A) requires that the district withhold its *employees'* and *former employees'* home addresses and telephone numbers, but only to the extent that the employees have elected to keep this information confidential in compliance with section 552.024 of the Government Code. *See also* Open Records Decision No. 530 (1989) (employee must make election prior to receipt of open records request). Section 552.117(1)(A) does not protect the home addresses and telephone numbers of any other class of individuals. *See, e.g.*, Open Records Decision No. 455 (1987) (home addresses and telephone numbers of job applicants not protected under section 552.117). Consequently, the district may not withhold the requested information pursuant to section 552.117(1)(A) except to the extent that a volunteer is also a district employee who elected to keep his or her address confidential prior to the district's receipt of the open records request.

We next address your arguments regarding section 552.101 of the Government Code. Section 552.101 protects "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," including the common-law right to

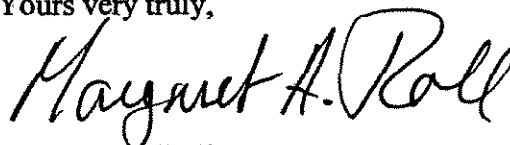
privacy. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). Common-law privacy protects information if it is highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, *and* it is of no legitimate concern to the public. *Id.* at 683-85. Your argument for withholding the addresses and telephone numbers under common-law privacy is as follows:

Because of crime and gang issues, notions of personal privacy have evolved in recent years. Concerns about safety and privacy are illustrated by the advent of the telephone caller identification service, the unlisted number option, and the statutory exception that allows public employees to elect non-disclosure of their addresses and phone numbers. Release of such information is highly offensive to many people. Additionally, the information is not of legitimate concern to the public.

In Open Records Decision No. 169 (1977) (copy enclosed), this office held that an individual's home address normally may not be withheld from the public on privacy grounds without a demonstration of "truly exceptional circumstances such as, for instance, an imminent threat of physical danger." *Id.* at 6. Absent a demonstration of "truly exceptional circumstances," this office lacks any basis for concluding that the requested home addresses and telephone numbers are protected by common-law privacy. The district therefore must release the requested information to the requestor.

Because case law and prior published open records decisions resolve your request, we are resolving this matter with an informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Margaret A. Roll
Assistant Attorney General
Open Government Section

MAR/RWP/rho

Ref.: ID# 29250

Enclosures: Open Records Decision No. 169

cc: Mr. Douglas J. Smith
7719 Springville Drive
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(w/o enclosures)